

## **Cabinet Resolution No. (85) of 2022**

### **Determining the Tax Residence**

#### **The Cabinet,**

- Having reviewed the Constitution; and
- Federal Law No. (1) of 1972, Concerning the Competences of Ministries and the Powers of Ministers, and its amendments thereof; and
- Federal Law by Decree No. (13) of 2016, Establishing the Federal Tax Authority (FTA), and its amendments thereof; and
- Federal Law No. (7) of 2017, Concerning Tax Procedures, and its amendments thereof; and
- Based upon the Minister of Finance’s proposal and the Cabinet’s approval,

#### **Has resolved:**

### **Article (1)**

#### **Definitions**

In application of the provisions of this Resolution, the following words and phrases shall have the meanings assigned to each of them, unless the context otherwise requires:

**State** : United Arab Emirates.

**Minister** : Minister of Finance.

**FTA** : The Federal Tax Authority.

**Person** : Natural or legal person.

**Tax Resident** : The person residing in the State as specified in Articles (3) and (4) of this Resolution.

**Business** : Any activity that is practised regularly, continuously, and independently by any person, such as industrial, commercial, agricultural, professional, craft or service activity, excavation activities, or activities related to the use of tangible or intangible property.

- Residence Permit** : The permit or authorisation issued by the competent authorities in the State to grant a natural person the right to reside or work within the territory of the State, and it does not include any temporary permit to enter the State for a specified period of time for the purposes of temporary travel, tourism, sports, treatment or any other purpose.
- Permanent Residence** : The place located in the State and available to the natural person at all times.
- International Agreement** : Any bilateral or multilateral agreement or any other agreement to which the State is a party, and which has been ratified by the parties.
- Tax Residence Certificate** : A certificate issued by the FTA proving that the person is a Tax Resident in the State.
- Tax** : Every federal tax imposed under the Tax Law of which management, collection and implementation is entrusted to the FTA.
- Tax Law** : Any federal law under which a tax is imposed.

## **Article (2)**

### **Objectives of the Resolution**

This Resolution aims to define the requirements and conditions for determining a person as a Tax Resident in the State.

## **Article (3)**

### **Legal Person**

A legal person is considered a Tax Resident in the State in any of the following two cases:

1. If it was established, formed, or recognised in accordance with the legislation in force in the State, not including the branch that is registered by a foreign legal person in the State.
2. If it is considered a Tax Resident under the applicable Tax Law in the State.

## **Article (4)**

### **Natural Person**

A natural person is considered a Tax Resident in the State if any of the following conditions are met:

1. If his usual or main place of residence and the centre of his financial and personal interests are in the State or if it fulfils the conditions and criteria specified by a decision issued by the Minister.
2. If he has been physically present in the State for a period of one hundred and eighty-three days (183) or more, during the relevant twelve (12) consecutive month period.
3. If he has been physically present in the State for a period of ninety (90) days or more, during the relevant twelve (12) consecutive months, and holds the nationality of the State, a valid residence permit in the State or the nationality of any of the member states of the Gulf Cooperation Council, and meets any of the following:
  - a. Having a permanent place of residence in the State.
  - b. Practising a job or business in the State.

## **Article (5)**

### **Tax Residence Certificate**

1. The person who is considered as a Tax Resident in the State in accordance with the provisions of Articles (3) or (4) of this Resolution may submit an application to the FTA, for the purpose of issuing his Tax Residence Certificate.
2. The application referred to in Clause (1) of this Article shall be submitted in accordance with the form and manner determined by the FTA.
3. If the FTA is satisfied that the applicant meets the conditions specified in Articles (3) or (4) of this Resolution and that the application is submitted in accordance with Clause (2) of this Article, it may approve the application and issue a Tax Residence Certificate.

## **Article (6)**

### **International Agreements**

1. If any international agreement specifies certain conditions for determining Tax Residence, the provisions of that international agreement regarding the determination of Tax Residence shall apply for the purposes of that international agreement.
2. The Minister shall issue a decision specifying the form and method of issuing certificates to determine the Tax Residence for the purposes of the international agreement.

## **Article (7)**

### **FTA's Powers and Cooperation Therewith**

1. The FTA may request all information, data and documents related to any person from all government agencies in the State for the purposes of implementing the provisions of this Resolution.
2. All government agencies in the State must fully cooperate with the FTA for the purposes of implementing the provisions of this Resolution, including providing the FTA with all information, data and documents related to any person as required by the FTA.

## **Article (8)**

### **Executive Resolutions**

1. The Minister shall issue the necessary decisions to determine the conditions, controls, and criteria for the implementation of any of the provisions of this Resolution.
2. The FTA shall be responsible for issuing clarifications and directives for the implementation of any of the provisions of this Resolution.

## **Article (9)**

### **Resolution Publication and Entry into Force**

This Resolution shall be published in the Official Gazette and shall enter into force as of 01 March 2023.

**Mohammed bin Rashid Al-Maktoum**

**Prime Minister**

**Issued by Us:**

**On: 06 Safar 1444 AH**

**Corresponding to: 02 September 2022 AD**